

## PERS Membership

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### A Summary

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The information in this section is provided to help you determine an employee's eligibility for membership in the Public Employees Retirement System (PERS).

The actual rules that govern membership are contained in state retirement law. This handbook summarizes those rules in less legalistic terms. It is not a complete description of the law. If there are any conflicts between what is written here and state retirement law, the law will govern.

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### Employer Responsibilities

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As the employer, you have certain responsibilities involved with enrolling and reporting retirement system members. You will want to keep the following points in mind:

- You are responsible for making the initial determination of an employee's eligibility for membership. The following pages explain the membership rules that currently apply. Review these pages carefully when making your determination.
- You are responsible for reporting all eligible employees from the first day of eligibility. (See Chapters 7 and 8 for instructions on how to report eligible employees.)
- You are responsible for documenting your decision regarding a position's eligibility. (See Chapter 12 for a sample worksheet you can use for documenting your decisions.) Your documentation will help protect you in case questions arise about a decision you have made.
- You are responsible for regularly reviewing the determinations you have made. By doing so, you can ensure that you are reporting correctly.

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## PERS Plan 1, Plan 2 and Plan 3 Membership Rules

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This section outlines current rules for membership in PERS Plan 1, Plan 2 and Plan 3. For prior period membership rules, see page PERS 2—19. If you have questions about PERS eligibility, please call PERS Retirement Services.

### Employees in Eligible Positions Can Be Members

The primary determination of eligibility for PERS is based upon the position. An employee who worked for one month in an eligible position before quitting would be entitled to PERS membership. In PERS, there are two ways a position can be eligible. A position is eligible if:

- The position *normally* requires at least five months each *year* in which regular compensation is earned for at least 70 hours per month. [RCW 41.40.010(25)(a), WAC 415-108-680]
  - As used in this definition, “normally” means a position that requires at least five months of at least 70 hours for two consecutive years. Once a position is determined to be eligible, it will continue to be eligible if it requires at least five months of 70 or more hours of compensated service during at least one year in any two-year period. [WAC 415-108-0102]
  - “Year” means any 12 consecutive month period established and applied consistently by an employer to evaluate the eligibility of a specific position. In the case of ongoing positions, the year used by the employer must be the same for all positions. In the case of a project or temporary position, the year used may be specific to the position. The term may include but is not limited to a school year, calendar year or fiscal year. [WAC 415-108-0108]

### Or

- The position is occupied by an elected official or person appointed directly by the Governor for compensation. [RCW 41.40.010(25)(b)]

To determine if a position is eligible, you may find it helpful to ask the following three questions.

1. Will the position ever require 70 or more hours of compensated employment in a month?  
  
—If the answer is *no*, the position is not eligible.  
—If the answer is *yes*, ask question 2.
2. Will the position ever require five or more months with at least 70 hours of compensated employment per month in a 12-month period?  
  
—If the answer is *no*, the position is not eligible.  
—If the answer is *yes*, ask question 3.
3. Will the position normally meet this standard? That is, will the position require five months of 70 hours during each of two consecutive years?  
  
—If the answer is *no*, the position is not eligible.  
—If the answer is *yes*, the position is eligible.

### Exceptions to Position Eligibility

In some circumstances a person may establish or continue membership even if he or she is employed in an ineligible position.

- A PERS member who leaves an eligible position to serve in a project position will continue in membership if the position requires at least 70 hours per month and the employee accepts the position conditioned on returning to a permanent eligible position at the completion of the project. [WAC 415-108-680(2) and WAC 415-108-0103]
- If an employee, in an ineligible position, made member contributions for at least nine months, the employee will be treated as having been in an eligible position during such period of employment. When it is discovered the position is ineligible, submit an end date on the next monthly transmittal and stop reporting the employee to DRS. [RCW 41.40.028]
- A PERS disability retiree may not establish PERS membership if employed in an eligible position unless receiving comparable compensation. [RCW 41.40.310 and 41.40.670]

- A retiree from SERS, TRS, LEOFF or WSPRS that retired with 15 or more years of service may not establish PERS membership if employed in an eligible position, unless the retiree established PERS membership prior to March 1, 1976. [RCW 41.04.270 and WAC 419-108-725]

### Employees in Ineligible Positions Cannot Be Members

An employee hired into an *ineligible position* is not eligible for membership in PERS and is not to be reported on the monthly transmittal. Be sure to document that the position is ineligible. You may copy the “Position Eligibility Worksheet” in Chapter 12 to use for this purpose.

An ineligible position is one that normally *does not* require at least five months each year in which regular compensation is earned for at least 70 hours per month.

Example #1: A position requires part-time work for 60 hours each month for the entire year.

**Explanation:** The position is *not* eligible because employment is for less than 70 hours each month.

Example #2: A position requires full-time work for 3 months each year.

**Explanation:** The position is *not* eligible because employment is for less than five months each year.

Example #3: A new position is created that is funded for only one year and will then cease to exist. The new position will require full-time work.

**Explanation:** The position is *not* eligible because it does not exist on an ongoing basis. The position does not meet the definition of “normally.”

### Employees Working in More than One PERS-Covered Position

All work an employee performs for you in a given month must be taken into account when determining an employee’s eligibility for membership. If the employee’s combined hours of employment meet the definition of an eligible position and if this is the employee’s normal pattern of employment, the employee is eligible for PERS membership.

An employee’s eligibility for membership is based only on his or her employment with you. An employee cannot combine hours of employment in positions with separate employers to establish membership in PERS.

Example #1: An employee normally works for you for 40 hours each month as a cook and for 40 hours each month as a bus driver.

**Explanation:** The employee is eligible for membership. The employee works a total of 80 hours each month for at least five months each year and this is the normal pattern of employment.

Example #2: An employee normally works for you for 40 hours each month as a cook. *For one year*, the employee takes on extra duties and works 40 hours per month as a bus driver.

**Explanation:** The employee is *not* eligible for membership. Although the employee works 80 hours each month for five or more months during the year, this is not the normal pattern of employment.

Example #3: An employee works for you for 40 hours each month as a cook and works *for another employer* for 40 hours each month as a bus driver.

**Explanation:** The employee is *not* eligible for membership. The employee cannot combine the hours of employment with separate employers to establish membership.

### Employees Working in Educational Staff Associate Positions

An Educational Staff Associate (ESA) is defined as an individual employed by a public school in any of the following positions:

- Communications Disorders Specialist
- Occupational Therapist
- Physical Therapist
- Reading Resource Technician
- School Counselor
- School Nurse
- School Psychologist
- School Social Worker

A person working in an ESA position in a public school must hold a certificate authorized by the State Board of Education. Although ESA positions are generally TRS eligible positions, there are instances where a person who was employed as an ESA before June 7, 1984, may have rights to PERS membership. If you are a public school employer and you hire a person who served in an ESA position before June 7, 1984, contact

PERS Retirement Services to help determine the membership options available to this member.

### **Employees Working in More than One Position**

An employee may work for you in a position that would be covered by PERS *and* in a position that would be covered by another retirement system; e.g., TRS or LEOFF. In such a case, the employee's eligibility for membership depends upon the types of positions the employee occupies. Refer to the tables on the following pages to determine how to report these types of employees.

**PERS Members**

Type of Concurrent Employment <sup>1/</sup>	Type of Employer(s)	System in which to Report Member
An eligible PERS position and an ineligible TRS or substitute position	Same employer	PERS – for both positions.
	Separate TRS employers	PERS - for the PERS position only, unless member qualifies for and elects to establish membership in TRS at the end of the school year under WAC 415-112-125(1).  If member elects to establish TRS membership, report member in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for the PERS position only. The TRS position will not be reported unless the member elects to:  1. have the TRS service reported in PERS and receive service credit in PERS for both positions; or 2. have the TRS service reported in TRS and not receive service credit for the PERS position.

<sup>1/</sup> “Concurrent” means during the same school year.

**Neither TRS nor PERS Member**

Type of Concurrent Employment <sup>1/</sup>	Type of Employer(s)	System in which to Report Member
An ineligible TRS and an ineligible PERS position	Same employer	TRS - for both positions if the positions, combined, qualify as an eligible position.
	Separate employers, TRS or non-TRS	Neither position reported.
A substitute teaching position and an ineligible PERS position	Same employer	Neither position reported. If the member qualifies, he or she may elect to establish membership in TRS at the end of the school year for the substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
	Separate employers, TRS or non-TRS	Neither position reported. However, if the member qualifies, he/she may elect to establish membership in TRS at the end of the school year for the substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

<sup>1/</sup> “Concurrent” means during the same school year.

**PERS or LEOFF Members**

<b>Type of Concurrent Employment</b>	<b>Type of Employer(s)</b>	<b>System in which to Report Member</b>
Eligible PERS position and less than full time law enforcement officer or fire fighter service	Same employer	Employee is eligible for PERS membership. Report all compensation, contributions, and service (PERS + law enforcement or fire fighter service) under PERS on the monthly transmittal.
Ineligible PERS position and less than full time law enforcement officer or fire fighter service	Same employer	Employee eligible for PERS membership if the combined hours of employment meet the definition of an eligible position in PERS. If the employee is eligible, report all compensation, contributions, and service (PERS + law enforcement or fire fighter service) under PERS on the monthly transmittal.
Ineligible PERS position and full time law enforcement officer or fire fighter position	Same employer	Employee is eligible for membership in LEOFF. Report only the compensation, contributions, and service in the LEOFF position under LEOFF on the monthly transmittal. Do not report the employment in the ineligible PERS position.

**PERS Disability Retirees**

<b>Type of Concurrent Employment</b>	<b>Type of Employer(s)</b>	<b>System in which to Report Member</b>
Eligible PERS position	Any employer	<p>Employer must contact PERS Retirement Services to determine comparable compensation. If it is determined compensation compares to the compensation reported prior to the disability retirement, the employee must be reported in PERS retroactive to the first date of hire.</p> <p><b>Note:</b> A PERS disability retiree who returns to work does not fall under the post-retirement employment provisions, but must be reported on the “Retiree Returning to Work Report” form.</p>

**PERS and SERS**

<b>Type of Employment</b>	<b>Type of Employer(s)</b>	<b>System in which to Report Member</b>
Concurrent <sup>1/</sup> in SERS eligible position and PERS eligible position	SERS employer	SERS in SERS
	PERS employer	PERS in PERS

<sup>1/</sup>. During the same month.